



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 33610892

Date: SEP. 30, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a security manager and fitness trainer, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding the Petitioner did not establish he satisfied at least three of the initial evidentiary criteria. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

Because the Petitioner has not indicated or established receipt of a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director determined the Petitioner did not fulfill any of them. On appeal, the Petitioner maintains he meets six evidentiary categories.¹

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i)

To meet this criterion, the Petitioner must demonstrate his prizes or awards are nationally or internationally recognized for excellence in the field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field including, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.²

The Petitioner presented a 2021 “Diploma” from the [REDACTED] for his “achievements in work and impeccable service in the Internal Affairs Bodies.” In addition, the Petitioner provided a “Letter of Appreciation” addressed to his parents from the “Commander of [REDACTED]” stating that the Petitioner “worthily fulfilled his military duty and parental wishes in the service of the Fatherland.” The Petitioner has not demonstrated that these honors from his police and military supervisors reflect national or international recognition rather than recognition limited to his employer or military unit. The record does not include supporting documentation demonstrating the significance of his Diploma and Letter of Appreciation in the field of endeavor or indicating that they have received media coverage or other attention that rises to the level of national or international recognition. Without further evidence regarding their national or international significance in his field, the Petitioner has not demonstrated that his honors are nationally or internationally recognized prizes or awards for excellence in the field. The Petitioner therefore has not established that he meets this regulatory criterion.

¹ In his appeal brief, the Petitioner does not contest the Director’s finding that he did not meet the high salary criterion at 8 C.F.R. § 204.5(h)(3)(ix). We consider the Petitioner’s prior eligibility claims not raised or contested on appeal to be abandoned. An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

² *See generally* 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policy-manual>.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner contends eligibility for this criterion based on his membership with the Kazakhstan Federation of Boxing (KFB) and the Oidene Hand-to-Hand Combat Federation (OHCF). USCIS determines if the association for which the person claims membership requires that members have outstanding achievements in the field as judged by recognized experts in that field.³ The petitioner must show that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts.⁴

The Petitioner provided documents from KFB's website discussing its "Events, achievements, history" and a letter from [REDACTED] of the OHCF, listing its "objectives" and "key activities," but this information does not establish that their membership criteria rise to the level of outstanding achievements. Furthermore, the Petitioner has not demonstrated that admission to membership in the KFB and the OHCF is judged by recognized national or international experts in their disciplines or fields. For these reasons, the Petitioner has not established he meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner submitted a letter from [REDACTED] stating that the Petitioner served as one of nine judges at the [REDACTED] in 2014 in [REDACTED]. This letter lists ten evaluation criteria used to judge the athletes. Based on the specific information in the letter, we disagree with the Director's determination that the Petitioner's service was limited to "refereeing" and solely involved "ensuring fair play according to the rules." Accordingly, we withdraw the Director's determination on this issue and conclude that the Petitioner meets this regulatory criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions, but that they have been of major significance in the field.⁵ As evidence under this criterion, the Petitioner submitted letters of support from his colleagues and a document entitled "Methodological Manual for Hand-to-Hand Fighting [REDACTED]". The Director considered this documentation but found that it was not sufficient to demonstrate that the Petitioner's work constituted original contributions of major significance in the field.

³ See generally 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual>.

⁴ *Id.*

⁵ See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1).

The Petitioner contends on appeal that the Director overlooked “the detailed and specific endorsement provided by respected figures in the field, such as the [redacted] of the OHCF, Mr. [redacted]. He asserts that “[t]hese endorsements are not merely expressions of admiration but are backed by concrete examples of the positive outcomes resulting from the implementation of the Petitioner’s methodology.” The Petitioner’s references discussed his work as a fighting coach, but their statements do not demonstrate the originality of his work and its major significance in the field.⁶ As discussed below, the reference letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to show the nature of specific “original contributions” that the Petitioner has made to the field that have been considered to be of major significance.

Regarding the Petitioner’s hand-to-hand fighting program, [redacted] stated:

[The Petitioner’s] innovative and original methodology has had a profound impact on our training programs. His unique approach, backed by his extensive research and experience, has been successfully implemented by other instructors and coaches, resulting in exceptional performances by our athletes. This comprehensive method encompasses vital elements such as athletic psychology, nutrition, and data science, ensuring that all aspects necessary who are achieving exceptional results are covered.

While Mr. [redacted] indicated that the Petitioner’s work has impacted the OHCF and its programs, the Petitioner has not shown that his methodological manual has influenced the self-defense field in a substantial way (beyond the Federation’s instructors, coaches, and students) or that it otherwise constitutes an original contribution of major significance in his field. Mr. [redacted] letter does not offer specific examples of how the Petitioner’s program has affected his sport to the extent that it is of major significance in the field.

In addition, [redacted] a mixed martial arts competitor and coach, indicated that he “studied and was a student of my coach [the Petitioner]. I met him at the beginning of 2014 and from that moment I started training with a coach. His main distinguishing character was that he trained from the heart and a desire to work, as well as to help everyone who was engaged in his gym become better.” Mr. [redacted] further stated: “During all the time of my training, [the Petitioner] was always with us. He helped to improve my techniques of punches and kicks, as well as work on physical fitness. His work as a coach was quite satisfactory to me, since the approach to training was of high quality and different from many others.” The Petitioner, however, has not shown that his coaching accomplishments rise to the level of original athletic-related contributions of major significance in the field. Nor has the Petitioner demonstrated that the level of attention received by his work signifies that he has made original contributions of major significance in the field.

In this case, the Petitioner has not demonstrated that his specific work rises to the level of original contributions of major significance in the field. Courts have routinely affirmed our decisions concluding that 8 C.F.R. § 204.5(h)(3)(v) “requires substantial influence beyond one’s employers, clients, or customers.” *Strategati, LLC v. Sessions*, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019) (upholding an agency decision that held “[a] patent is not necessarily evidence of a track record of success with some degree of influence over the field as a whole.”); *see also Amin v. Mayorkas*, 24

⁶ While we discuss a sampling of the letters of support, we have reviewed and considered each one.

F.4th 383, 394 (5th Cir. 2022) (upholding agency decision that held evidence insufficient “because it did not show widespread replication of [the petitioner’s invention]”). Here, the Petitioner has not shown that his original work has affected his field at a level commensurate with contributions of major significance in the field.

For the reasons discussed above, the Petitioner has not established that he has made original contributions of major significance in his field.

Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

As evidence for this criterion, the Petitioner presented a letter from [redacted] discussing the Petitioner’s role as a trainer and coach as well as his teaching a fighting skills master class in June 2017. The Director determined that the Petitioner had not demonstrated that his work was displayed at artistic exhibitions or showcases. The Petitioner maintains on appeal that his teaching of a master class involving “detailed training on techniques such as hand and foot strikes, submissions, holds, stretching and functional endurance - key elements in combat sports” meets this criterion. The Petitioner’s field, however, is not in the arts. The regulation at 8 C.F.R. § 204.5(h)(3)(vii) expressly requires that a petitioner’s work be displayed at “artistic exhibitions or showcases.” The Petitioner has not demonstrated that providing fight sports instruction to a group of students equates to display of his work in the field at artistic exhibitions or showcases. Accordingly, the Petitioner has not established he meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

To qualify under this criterion, a petitioner must show that they performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. For a leading role, USCIS looks at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof.⁷ A title, with appropriate matching duties, can help to establish that a role is (or was), in fact, leading.⁸ For a critical role, USCIS looks at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities or those of a division or department of the organization or establishment.⁹ A petitioner must also demonstrate that the organization or establishment, or the department or division for which they hold or held a leading or critical role, has a distinguished reputation.¹⁰ Merriam-Webster’s online dictionary defines “distinguished” as “marked by eminence, distinction, or excellence” or “befitting an eminent person.”¹¹

The Petitioner maintains on appeal that he has performed in a leading or critical role for the OHCF, Ministry of Internal Affairs, [redacted], and State Security Service of the

⁷ See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Republic of Kazakhstan. The Petitioner, however, has not presented evidence showing that these organizations have a distinguished reputation. While the Petitioner asserts that they are “esteemed institutions and organizations,” he does not point to any corroborating evidence in the record showing their eminence, distinction, or excellence. Because the documentation in the record does not establish the distinguished reputation of the OHCF, Ministry of Internal Affairs, [REDACTED] [REDACTED] and State Security Service of the Republic of Kazakhstan, the Petitioner has not demonstrated that they meet the requirements of this criterion. Since this issue is dispositive, we decline to reach and hereby reserve the appellate arguments regarding whether the Petitioner has performed in a leading or critical role for these organizations. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). The Petitioner therefore has not established that he meets this criterion.

III. CONCLUSION

While the Petitioner meets the judging criterion, he has not established he satisfies the criteria relating to awards, memberships, contributions of major significance, artistic display, or leading or critical role. Because the Petitioner’s inability to meet three of the initial criteria is dispositive of his appeal, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. We therefore reserve this issue.¹²

Nevertheless, we have reviewed the record in the aggregate, concluding it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. at 954 (Assoc. Comm’r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary ability,”); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff’d*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”). See also *Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”)); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that “arguably one of the most famous baseball players in Korean history” did not qualify for visa as a baseball coach). Here, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R.

¹² See *INS v. Bagamasbad*, 429 U.S. at 24, 25; see also *Matter of L-A-C-*, 26 I&N Dec. at 526 n.7.

§ 204.5(h)(2). The record does not contain sufficient evidence establishing the Petitioner among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.